

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **SEN. JON TESTER**, on March 8, 1999 at 3:00 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 373, HB 531, 3/2/1999
Executive Action: HB 130, HB 345, HB 352, HB 531, HB 232, HB 373

HEARING ON HB 373

Sponsor: REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN

Proponents: **Marty Lambert, Gallatin County Attorney**
 Phil Olson, Gallatin County Commissioner
 Vern Peterson, Fergus County Commissioner
 Earl Martin, Granite County
 Mona Jamison, Gallatin County

Opponents: **NONE**

Opening Statement by Sponsor:

Representative Cindy Younkin, HD 28, This bill establishes a procedure for how to annex into an existing herd district. Herd district law was first enacted in the State in 1917 and has been amended many times since then. Basically, if you're in a herd district, you fence your cows in. If you are not in a herd district and you don't want your neighbors' cows on your property, you fence them out. If you own cows and you're not in a herd district, then you are under no obligation to fence your livestock. If you don't want somebody else's livestock on your property, fence them out.

The process for annexation currently consists of lines 13, 14, and 15 on the second page of the bill, three lines but basically one sentence. That's all the guidance counties currently have to proceed with annexing property into an existing herd district. Taking those three lines taken out in the bill and adding new Section 2, which begins on line 21, sets forth the process for annexing into an existing herd district. It mirrors what it takes to create a herd district in that you have to have regular and symmetrical boundaries, but you don't need twelve square miles, which is what it takes to create a new district. You have to submit a map; there was no requirement for that before. It was very difficult for commissioners to know exactly what they were dealing with when people came to them wanting annexation into an existing herd district.

This legislation arose because of a problem we had in Gallatin County having to do with subdivisions. It may affect other people in the state with growing counties where they have existing herd districts and areas on the perimeter who want to be in the herd district.

Proponents' Testimony:

Marty Lambert, Gallatin County Attorney, We had a difficult situation arise in Gallatin County this last summer regarding a petition to annex property onto an existing herd district. As a result of going through that process, we found a number of ways

in which the law which pertains only to annexation could be improved. This bill establishes that 100% of people in the affected territories need to request the annexation in order to permit annexation of that territory. That is important because of the character and nature of the area that might be involved. It was unfair to the petitioners in Gallatin because it wasn't entirely clear in the statute what percentage of the landowners in these particular pieces of property needed to request annexation. They were seeking to annex little over 2 square miles and it involved many, many landowners. Once they had 55%, which is the requirement for creation of a herd district, they quit. Now it will be fairer to the people who would petition.

I think you can support requiring 100% of the landowners for several reasons. First it is protecting the character of the area. I'd rather it was clear in the law rather than resorting to the rules of statutory construction as I did when I dealt with this particular question. All of the people in that area should have to petition. Another strong reason is fairness for enforcement. When we looked at this proposed annexation, when the numbers of landowners that actually signed the petition were subtracted from the area, we had a horrible checkerboard pattern. Under the law as it now exists, the commissioners are supposed to be able to look at whether the area is reasonably symmetric or regular in shape. That is not found in the law that deals with annexation. This is something else that **REPRESENTATIVE YOUNKIN** seeks to add.

Now the commissioners can judge the shape of a proposed annex of properties. This is a horrible checkerboard pattern. Some properties being in, and some properties being out, would create huge enforcement concerns for the sheriff. A neighbor on one side has petitioned and is inside the herd district. Another neighbor didn't sign and therefore isn't part of the herd district so their property is still open range. You have the large area outside the herd district where the livestock owner still runs cattle. You have a real problem with who has to build the fences. When that particular neighbor who signed the petition wakes up one morning to find the new tree he spent a couple of thousand to plant has a bull that's rubbed up against it and destroyed it, he is going to demand his neighbor build a fence. The neighbor is going to say they didn't sign the petition. Their little piece of property is still open range.

A number of problems regarding enforcement, fairness to the commissioners and the petitioners so they know what the requirements are if they want their property to join an existing herd district, are clarified by this bill. Rather than relying on an opinion from me using rules with legal interpretation and

rules of statutory construction, I would rather the legislature establish the process be similar to creation of a herd district in terms of the commissioners being able to judge the regular and symmetric nature of the property. This will give the commissioners the ability to judge the shape of that property. It wouldn't be fair to the cattlemen, the livestock owner, or the property owners inside the proposed annexed territories to start a herd district because there's no way the sheriff is going to be able to enforce keeping cattle in where they need to be.

Phil Olson, Gallatin County Commissioner, representing the full County Commission. Mr. Lambert has explained our situation and our position. We strongly favor the ability of people to be able to annex and we in don't want to infringe on that. We want it clarified so everyone knows the rules. The reason for requiring all affected landowners to sign the petition is because there is no size limitation in the annexation process while it is in the creation process. One person would like to be annexed but is not contiguous to the proposed annexation. He has a next door neighbor whose property is contiguous. The first person draws a herd district around his and his neighbor's properties, gets a petition and bingo, he owns more land than the neighbor. That's why it needs to be 100%, because there is no size limitation. When you have twelve square miles, you deal with a lot of people.

Vern Peterson, Fergus County Commissioner, is here as a "me, too". As we get more urban sprawl or development in our rural counties, this becomes more of an issue.

Earl Martin, Granite County Commissioner, stands in support of this bill. Counties aren't designed to handle urban problems. As these subdivisions come in, we're having more problems and I think this would help.

Mona Jamison, Lobbyist for Gallatin County, This is a bill about procedure. How do you annex to an existing herd district? As you can see in Section 1, the law is very explicit as to what's required of existing herd districts, both in terms in the amount of land that has to be involved, the amount of people who have to sign off, how far from the city, etc. When you annex, you add the land around. You've heard the County Attorney and Commissioner Olson speak on how the existing law is very silent except for a couple of areas on how you go about annexing. This bill sets it straight. In the historic use in a herd district, if I'm a rancher, I have to fence my stock in. If I'm a rancher in open range and you're a homeowner in a new subdivision, you have to fence my cattle out. This bill says we're not going to

make the rancher fence in an annexed area unless he, as part of the 100%, has signed off on the annexation. If I'm the homeowner and I have these cows messing in my tulips, why should that be the reason to make the rancher in the historic open range have to fence his cattle in, if I'm part of the herd district. This bill says, here is the procedure, we're going to require 100% and do what we can to preserve the historic open range use of Montana's land. Passed out letters of support from County Commissioners. SEE EXHIBIT(ags52a01), EXHIBIT(ags52a02), EXHIBIT(ags52a03), EXHIBIT(ags52a04), EXHIBIT(ags52a05).

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3.12}

Questions from Committee Members and Responses:

SENATOR JERGESON There's a little town up on the Hi-Line, Rudyard, with a sign outside of town that says something like the home of 596 of the finest people in the world and one old sore head. I'm trying to understand this 100% circumstance. If the old sore head lives contiguous to the herd district and 596 people sign the petition, the one old sore head can deny the annexation. Is that how this bill is constructed?

Phil Olson That's true, if they are annexing.

SENATOR JERGESON Did you consider some other numbers that might be appropriate in that circumstance? Almost everywhere you go, there's always one old sore head.

Phil Olson That's a possibility. However, nothing precludes putting fence up anyway. One of the things we are doing currently in our subdivision regulations is requiring the Homeowners Association to put the fence up between the subdivision and the agricultural land. This particular one that came before us was not a subdivision. It was made out of twenties created without going through subdivision so there was no way to have that condition in there.

SENATOR DEVLIN Does this address your situation in your county?

Phil Olson Yes.

SENATOR JABS When you annex, you add to. If you can't get 100% of the signatures, can you add a new herd district right next to that?

Phil Olson Yes, you could start another herd district but the regulations say you need twelve square miles.

SENATOR HOLDEN You have 500 people in a subdivision who want in a herd district and one old sore head who lives on the side of the district. Everybody else could sign the petition to get in and leave the old sore head out on the side. You could construct a new annexation in a way you could probably get in the majority of the people who want in the herd district and leave the sore head out.

Phil Olson Yes, that's true. If the sore head was on the edge, he would not have to be included.

SENATOR JERGESON If the sore head occupied strategically located land contiguous to the herd district, he could prevent the annexation. I don't know if you could doughnut around him if he only had part of the contiguous property. Three of the whole 597 landowners are contiguous to the existing herd district. The old sore head lives in the middle piece of property and he refuses to sign. The others draw a line that excludes his property from the annexation but he's in the center of three contiguous pieces of property. Would that permit annexation?

Marty Lambert Yes, it would. Let's say that piece is landlocked. You'd still have a little land locked piece of open range. If he wanted to bring livestock in and run them on his little piece of open range that is surrounded by properties annexed into and part of a herd district, obviously those neighbors are going to have discussions about who has to build the fences. I think under those circumstances, the annexation could be approved even though your one old sore head didn't want to join. Taking your example to it's logical conclusion, if there was a strategically located piece of property that's the only piece of property making the remaining annex properties contiguous and that owner didn't want to go along, then it would lack contiguity and perhaps there could not be an annexation. There might be that very difficult and hard case out there. I think 99% of the other cases we could think about under these scenarios could be dealt with fairly and better under **HB 373** than what we have right now.

SENATOR BECK Could you explain what the problem was in Gallatin County?

Phil Olson The people had an attorney draw up the petition and the attorney went to the creation of a herd district, using 55% of owners of the land as the criteria to annex property into an

existing herd district. This was an existing herd district. Mr. Olson showed the locations of Belgrade, Bozeman and Livingston on a map and showed the site of the proposed annexation. What they drew turned out to be an area with many parts of open range in the center from people who did not sign. You can see the irregular shape of this. How would you like to be the rancher in the open range who is going to have to deal with this and fence just half of each one of these? All the corner posts are going to have to set. He explained the difficulty of the rancher fencing and dealing with each landowner separately. The map was done by the Clerk and Recorder's Office.

SENATOR NELSON Show me what the bill is going to do.

Phil Olson Every person in here will have to sign and say yes, we want to be in the herd district. Everyone of these parcels will have to sign. These folks here are contiguous to the herd district. They could join but they quit getting names when they reached 55%. We cannot deal with a situation like this.

Marty Lambert The bill would state directly in the law that the commissioners can look at this shape and if it's not regular and symmetric, they can reject an annexation for those purposes. The only reason they were able to reject this proposed annexation was because of a legal interpretation I gave relying on statutory interpretation saying it really didn't make sense to do it any other way.

SENATOR NELSON Say there's a sore head who lives right there. Is that going to negate the whole process?

Marty Lambert No, that's exactly what he was speaking about. If this was a nice square and more regular area, you could isolate that person. The three parcels you pointed to would simply remain open range. We did not attempt to address these fencing issues in this bill. It would seem that land locked piece could still be open range and then the issue would be if that person brought livestock in, they'd probably have to build fence.

SENATOR JABS Who would pay for the cost of the fence? Would everybody donate towards the cost of the fence or who is responsible?

Phil Olson Anything we did, did not change the fencing law. Whatever fence law is now will be the same after this bill.

SENATOR JABS The people on the inside could force the people on the outside to put up half of the fence, so there's still a burden of fencing and the cost would be on the border people.

Phil Olson That's something we did not address at all, but in my understanding of this, all of these people would have to sign on to annex.

{Tape : 1; Side : A; Approx. Time Counter : 3.29}

Closing by Sponsor:

REPRESENTATIVE YOUNKIN The questions of fencing are difficult and we did not try to fix those. That may be appropriate for other legislation. Other herd districts in Montana besides the one in Gallatin County either have faced this problem or they will at some point in the future. If you have somebody that owns a half section or section of land, they're probably not going to petition to get in. It's when you have small parcels of land.

Our job of legislators here is to balance the interests of these people with the smaller parcels and our historical open range practices in Montana. I would ask that if someone is entertaining an amendment to lower the threshold of 100% to be sure that it remains up around the 80% mark. You don't want 55% of people in a subdivision to change the historical open range practices of those outside stockmen who aren't necessarily in the subdivision. The annexation clarification is good for anyone who owns real property, whether a five acre parcel or a half section. It provides the clarity that anyone wanting to get into that herd district needs to know beforehand. When laws are not clear, it's our job to provide some guidance in the statutes.

SENATOR HARGROVE will carry to the Senate.

{Tape : 1; Side : A; Approx. Time Counter : 3.32}

EXECUTIVE ACTION ON HB 130

Doug Sternberg explained the amendments briefly for the Committee. There was some voidness and contingency language that needed to be dealt with. Part of the amendments deal with that.

SENATOR JERGESON requested at the hearing we put together some amendments that would terminate the fee provisions of the pesticide collection program but leave the underlying program and the account intact until the money is expended. Doug went through the amendments. **SEE EXHIBIT(ags52a06).**

Motion/Vote: SEN. BECK moved that AMENDMENT HB013003.ADS BE ADOPTED. Motion carried unanimously.

Motion/Vote: SEN. JERGESON moved that HB 130 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

HEARING ON HB 531

Sponsor: REPRESENTATIVE KIM GILLAN, HD 11, BILLINGS

Proponents: NONE

Opponents: NONE

Opening Statement by Sponsor:

REPRESENTATIVE KIM GILLAN, HD 11, The crux of HB 531 is on line 13. We are asking to raise the threshold for competitive bidding in drainage districts from \$2,500 to \$10,000. As you know, the cost of doing dirt moving and work associated with drainage districts is becoming more expensive. It's also becoming more expensive to do any type of competitive bidding. There is a drainage district in an area of Billings where members of the district have become concerned. They find themselves doing their work in incremental bits in order to comply with the \$2,500 threshold requirement for competitive bidding.

When I was asked to carry this bill, one question that came to my mind was, by raising the threshold level for competitive bidding, how does this relate to what the existing statutes are for cities and counties for competitive bidding. Most statutes are contained in 7-5-2301 for counties' competitive bidding and for cities in 7-5-4302. I think the competitive bidding threshold for counties has increased to \$50,000 and cities to \$25,000.

This bill asks for an increase in the threshold for competitive bidding. When it went through the House Agriculture Committee there were no opponents. When I presented the bill on the House Floor, there were several people from Ag communities that initially voted against. I was concerned that it would somehow put the system out of kilter but they assured me it didn't.

Proponents' Testimony:

Opponents' Testimony:

Questions from Committee Members and Responses:

Closing by Sponsor:

REPRESENTATIVE GILLAN Should someone hear from a constituent that this would cause a problem, I'm very open to discussion. It just reflects the changing cost of doing the work and the changing cost of doing the bidding. I think \$10,000 is a reasonable amount.

SENATOR NELSON will carry in the Senate.

EXECUTIVE ACTION ON HB 345

Motion: **SEN. HOLDEN** moved that **HB 345 BE TABLED.**

SENATOR BECK thinks it's impossible for contractors to live with. There is a problem, more in the counties than the Highway Dept. The highway always sprays its road right-of-ways. The counties don't always do that and then they spread this gravel and start weeds. In Deer Lodge County right next to us, they spread some gravel that had leafy spurge, knapweed and white top in it next to a person who grows potatoes. The person complained about the weeds coming up. It was sprayed with Banvil and Banvil's residual affected the potatoes and they lost quite a lot. I know it's a problem out there but this is too severe. I don't think there's any gravel pit in the State of Montana that wouldn't have weed seed in it.

SENATOR MESAROS Not all counties have full time staff to adequately administer this. I have some other legislation to try to help that. This bill is well-intended but it may be a little premature.

SENATOR BECK I don't care what kind of a sample you take out of the ground, there's going to be weed seed in it.

SENATOR DEVLIN This probably really isn't going to affect the contractor that much, but it sure will affect any city or county taking gravel out of a pit.

SENATOR BECK They aren't included in this bill, are they? Counties aren't included in this. They do a lot of gravel hauling too, and where would they locate a gravel pit?

SENATOR TESTER I don't necessarily think this bill prohibits weed seed from the gravel. I think what they're trying to do is to try to cut down on the amount of weed seed in the gravel by having a plan.

SENATOR MESAROS They want to have a noxious weed management plan approved by the county before they proceed with their permitting.

SENATOR BECK It would take major amendments to the bill to do something like that. Right now, they have to do something to control the weeds before they even take dirt out. (Turn Tape)

SENATOR HALLIGAN I don't know if the counties are out completely. Where is "operator" defined? This is the bill we wanted DEQ on. Maybe the Chairman could have the secretary call DEQ and we can hold this bill over for one day.

SENATOR HOLDEN I don't think there's support for the bill, so why waste the Dept.'s time.

Doug Sternberg Operator is a person engaged in or controlling an open cut mining operation. Person is a natural person, a firm, association, partnership, cooperative or corporation, a department, agency or any governmental subdivision or any other entity.

Vote: Motion **carried 6-5**. Roll call vote with **SENATORS JABS, HALLIGAN, MESAROS, NELSON** and **TESTER** voting no.

{Tape : 1; Side : B; Approx. Time Counter : 3.49}

EXECUTIVE ACTION ON HB 352

Doug Sternberg distributed amendment **SENATOR BECK** had requested. **SEE EXHIBIT(ags52a07)**. This is on the access to public land. You indicated you would like some language similar to this in Section 3, which deals with the county. If you want the same provision to apply, you would have to insert that same language in Section 4, line 17.

SENATOR BECK I'm trying to say the board may not abandon county road right-of-way access to public land unless another public right-of-way provides substantially the same access. I'm trying to make sure the terminus of that county road or right-of-way is on public land. In our county, a lot of public roads go partway, then it could be a public road, a Forest Service road, whatever. You can't abandon a road if its terminus is public land.

SENATOR JERGESON and **SENATOR BECK** each drew a picture on the blackboard of county road accessing public land. A discussion followed on terminus of the road and what could be abandoned.

SENATOR BECK withdrew his amendment.

Doug Sternberg There was a question on the use of the phrase non-exclusive easement. It's not actually defined but there is one place in the MCA, Section 9 in 77-1-130, that says "for the purposes of the section, historic right-of-way deed means a document issued by the Dept. granting to the applicant a non-exclusive easement over state land". The phrase is not actually defined but it is used. Apparently the Dept. of State Lands has had some application of that phrase. I presume that means the underlying easement itself is established but it's not established exclusively to one party.

SENATOR JABS Was there concern about who's going to maintain this road once it's abandoned?

SENATOR BECK The county I was a commissioner of did what they called dedicated roads. They listed the roads they were dedicated to maintain and upkeep. They didn't abandon all the unnecessary roads; they just dedicated the ones they were going to use for maintenance. Some of those roads did go all the way into the mountains but that was the right-of-way for people to go up there. It went to the public land, but it also served for private landowners as an easement to get to and from their own property. If you went through the abandonment process and didn't furnish them an easement, they could have been landlocked out of their property. As far as maintenance goes, I don't think that's a big issue, at least in the county I was from. I think there's a real difference between a county road, a dedicated county road, a private road and public road.

SENATOR JABS If it goes through private land, the private person will maintain it because it goes from there into federal land and nobody lives there. Who's going to maintain it, keep the weeds down, etc. That was the concern somebody had.

SENATOR MESAROS In your abandonment process, why isn't it being addressed at the local level. Don't they have adequate means to address this at the local level. I question the need for line 6 and 7 in the bill.

SENATOR BECK County Commissioners have abandoned roads that were the only access to the public land. Once that happens, the gate is locked and the public is out of there. Even the Forest Service had fought these a time or two. At least in our county, all the county roads lead up to the public land. Very seldom you see a county road go through the public land back to private ground. My theory is, if there's a county road going to public land, I don't think they should be shutting that road off to keep the public out.

{Tape : 1; Side : B; Approx. Time Counter : 4.08}

SENATOR EKEGREN You're talking about dedicated roads and I'm taking that to mean maintained roads. Is that a big concern to the hunters and fishermen? They're concerned about access; they don't really care how that road is maintained.

SENATOR BECK The county only takes the roads up a short way and the Forest Service picks them up. Counties, a long time ago, figured that out and said, hey, we're not going to go clear up to nowhere. The county is more concerned about going to a residence and that's where they maintain the roads to. Once it goes past that residence, the Forest Service maintains the road.

Motion: **SEN. HOLDEN** moved that **HB 352 BE CONCURRED IN.**

SENATOR JABS If the county is forced to keep that road open and it goes to Forest Service, there's some liability involved. You said the hunters don't care what shape it's in, but if it gets to the point where somebody has a wreck, then there's a lawsuit. Who is liable if the county is forced to keep this road open.

SENATOR HALLIGAN I'm sure there's a reasonable standard they're going to have to maintain.

SENATOR BECK If it got to the point it was impassable, I would assume either the Forest Service, the county or a combination of the two would come in and fix that road. Counties are going to accept that liability exposure; they have a lot of it on the main county roads they have problems with.

SENATOR MESAROS I don't condone any activity blocking off access to public ground at all. This is a local issue, especially when it comes to counties. We had a road that went through some property, a county road they wanted to officially abandon. We had to get so many landowners to sign it, go through public notice and a public hearing to get input from the area people who would be affected. I'm concerned whether this is necessary when I believe it's being handled at the local level.

SENATOR BECK You could have twelve people say yes, we want to abandon it. Then is that for those twelve persons' exclusive right, maybe be twenty - thirty sections of forest ground that has no other access.

SENATOR MESAROS I agree with the statement. With the processes that are established right now, I believe it can be handled by

the people who are most familiar with that area, through the public hearing process and public notification.

SENATOR BECK The bill wouldn't be in here if it were being handled at the local area.

SENATOR HALLIGAN You can abandon a road even with public input. You get about twelve of those landowners convinced they don't want the road anymore and they can abandon it, unless you can't provide other access. Local control hasn't been fair in some of those cases where it's the only opportunity for access.

Doug Sternberg There are two new sections that do address provisions that allow purchase of historic easements that's not clear in the law right now.

SENATOR BECK There are two sections in this bill, one is the access issue, the other is the easement. You should have the right to purchase that easement.

SENATOR HOLDEN There's a better perspective on this bill from eastern Montana and that is the easement. Right now we have farmers and ranchers who are technically locked out of their land if the road goes across state and public lands and accesses a section that's isolated behind public land. We have farmers and ranchers in eastern Montana who don't have legal access to their property. They need to purchase easements through state land.

In Daniels and Sheridan Counties, when they established the reservation they stuck this government land through those counties. Those people have government land that isolates their sections of land. When they try to get a loan from their banker, he says he can't give money on the potential grain crop on that section because they have no legal easement. People have used these roads for over 100 years to haul grain and cattle out of the hills. I've received a lot of calls about purchasing easements over state property because people can't sell sections and can't get their product to market.

Vote: Motion **carried 10-1 with Mesaros voting no.**

EXECUTIVE ACTION ON HB 531

Motion/Vote: SEN. NELSON moved that **HB 531 BE CONCURRED IN.**
Motion carried unanimously.

EXECUTIVE ACTION ON HB 232

{Tape : 1; Side : B; Approx. Time Counter : 4.21}

Doug Sternberg put together some technical amendments for the voidness issues and explained the amendments. **SEE EXHIBIT (ags52a08) .**

Motion/Vote: **SEN. BECK** moved that **AMENDMENT TO HB 232 BE ADOPTED. Motion carried unanimously.**

SENATOR MESAROS Were those reflective of HB 218?

Doug Sternberg Yes, amendment #1 is 218, amendment #2 is 217, amendment #8 is 219, all three of the referendum measures are now incorporated into the mother bill. If the members are happy with HB 232 now, we can table all the referendum measures.

Motion/Vote: **SEN. MCNUTT** moved that **HB 232 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

Motion: **SEN. BECK** moved that **HB 217, HB 218, HB 219 BE TABLED.**

It had been agreed to let the bills just die. **SENATOR BECK** rescinded his motion.

EXECUTIVE ACTION ON HB 373

Motion: **SEN. HOLDEN** moved that **HB 373 BE CONCURRED IN.**

SENATOR JABS If they're going to annex this area in, can this group force the rancher to put half of the fence in?

SENATOR HOLDEN The way the bill reads, if you want to take a chunk of ground outside the herd district and move it into the district, there can be a lot of different landowners on the outside of the perimeter. Each landowner on the outside and the inside have to build half of the fence.

SENATOR JABS If you have 100% of signatures in this little area here, they're going to force the outside to put the fence up.

SENATOR HOLDEN He's going to do that anyway. It's current law.

SENATOR JABS If there's no herd district, he doesn't have to put a fence up.

SENATOR HOLDEN That's why if you don't want to do a lot of fencing, you're going to support this bill because you're going to make it more difficult for all these people to start establishing herd districts, because they're going to have to get 100%. Without this law, all they have to do is petition the County Commissioners and start down that trail to establish herd districts.

SENATOR JABS Without a herd district, if you want my cattle out, you have to fence them out. Without a herd district, I don't have to fence.

SENATOR MCNUTT It has to be contiguous to a herd district to do this.

Doug Sternberg This bill deals strictly with property adjacent to a present herd district where the landowners that are contiguous want to annex their property onto an existing district.

SENATOR JABS I don't want to force this person to build this fence.

Doug Sternberg Under the provisions of this statute, all affected owners of possessors of land must sign the petition.

SENATOR TESTER This is going to make it more difficult to do it, and remember the regular shape. The way it is presently it could be an E shape which would be far more fencing than a square block.

SENATOR JERGESON When I was looking at that subdivision out there, one ranch had irregular boundaries with all sorts of neighbors. The whole issue of this fencing ought to have been considered when that was put up for subdivision review. Then it washes over to us to try to sort out people with competing claims to property rights.

Vote: Motion **carried 10-1 with Jabs voting no.**

ADJOURNMENT

Adjournment: 4:32 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags52aad)